

AIR NAVIGATION

Exchange of notes at Berlin May 27, 30, and 31, 1932, with text of arrangement

Entered into force June 1, 1932

Superseded by ICAO convention of December 7, 1944,¹ and air services transit agreement of December 7, 1944²

47 Stat. 2721; Executive Agreement Series 38

The American Ambassador to the Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA
Berlin, May 27, 1932

No. 797

EXCELLENCY:

I have the honor to communicate to Your Excellency the text of the arrangement between the United States of America and Germany, on the subject of air navigation, as understood by me to have been agreed to in the negotiations which have just been concluded between the Embassy and your Ministry, as follows:

AIR NAVIGATION ARRANGEMENT BETWEEN GERMANY AND THE UNITED STATES OF AMERICA

ARTICLE 1

Pending the conclusion of a convention between Germany and the United States of America on the subject of air navigation, the operation of civil aircraft of the one country in the other country shall be governed by the following provisions.

ARTICLE 2

The present arrangement shall apply to Germany and to Continental United States of America, exclusive of Alaska, including the adjacent territorial waters of the two countries.

¹ TIAS 1591, *ante*, vol. 3, p. 944.

² EAS 487, *ante*, vol. 3, p. 916.

ARTICLE 3

The term aircraft with reference to one or the other Party to this arrangement shall be understood to mean civil aircraft, including state aircraft used exclusively for commercial purposes, duly registered in the territory of such Party.

ARTICLE 4

Each of the Parties undertakes to grant liberty of passage above its territory in time of peace to the aircraft of the other Party, provided that the conditions set forth in the present arrangement are observed.

It is, however, agreed that the establishment and operation of regular air routes by an air transport company of one of the Parties within the territory of the other Party or across the said territory, with or without intermediary landing, shall be subject to the prior consent of the other Party given on the principle of reciprocity and at the request of the Party whose nationality the air transport company possesses.

ARTICLE 5

The aircraft of each of the Parties to this arrangement, their crews and passengers, shall, while within the territory of the other Party, be subject to the general legislation in force in that territory, as well as the regulations in force therein relating to air traffic in general, to the transport of passengers and goods and to public safety and order in so far as these regulations apply to all foreign aircraft, their crews and passengers.

Each of the Parties to this arrangement shall permit the import or export of all merchandise which may be legally imported or exported and also the carriage of passengers, subject to any customs, immigration and quarantine restrictions, into or from their respective territories in the aircraft of the other Party, and such aircraft, their passengers and cargoes, shall enjoy the same privileges as and shall not be subjected to any other or higher duties or charges than those which the aircraft of the country, imposing such duties or charges, engaged in international commerce, and their cargoes and passengers, or the aircraft of any foreign country likewise engaged, and their cargoes and passengers, enjoy or are subjected to.

Each of the Parties to this arrangement may reserve to its own aircraft air commerce between any two points neither of which is in a foreign country. Nevertheless the aircraft of either Party may proceed from any aerodrome in the territory of the other Party which they are entitled to use to any other such aerodrome either for the purpose of landing the whole or part of their cargoes or passengers or of taking on board the whole or part of their cargoes or passengers, provided that such cargoes are covered by through bills of lading, and such passengers hold through tickets, issued respectively for a journey whose starting place and destination both are not points between which air com-

merce has been duly so reserved, and such aircraft, while proceeding as aforesaid, from one aerodrome to another, shall, notwithstanding that such aerodromes are points between which air commerce has been duly reserved, enjoy all the privileges of this arrangement.

ARTICLE 6

Each of the Parties to this arrangement shall have the right to prohibit air traffic over certain areas of its territory, provided that no distinction in this matter is made between its aircraft engaged in international commerce and the aircraft of the other Party likewise engaged. The areas above which air traffic is thus prohibited by either Party must be notified to the other Party.

Each of the Parties reserves the right under exceptional circumstances in time of peace and with immediate effect temporarily to limit or prohibit air traffic above its territory on condition that in this respect no distinction is made between the aircraft of the other Party and the aircraft of any foreign country.

ARTICLE 7

Any aircraft which finds itself over a prohibited area shall, as soon as it is aware of the fact, give the signal of distress prescribed in the Rules of the Air in force in the territory flown over and shall land as soon as possible at an aerodrome situated in such territory outside of but as near as possible to such prohibited area.

ARTICLE 8

All aircraft shall carry clear and visible nationality and registration marks whereby they may be recognized during flight. In addition, they must bear the name and address of the owner.

All aircraft shall be provided with certificates of registration and of airworthiness and with all the other documents prescribed for air traffic in the territory in which they are registered.

The members of the crew who perform, in an aircraft, duties for which a special permit is required in the territory in which such aircraft is registered, shall be provided with all documents and in particular with the certificates and licenses prescribed by the regulations in force in such territory.

The other members of the crew shall carry documents showing their duties in the aircraft, their profession, identity and nationality.

The certificate of airworthiness, certificates of competency and licenses issued or rendered valid by one of the Parties to this arrangement in respect of an aircraft registered in its territory or of the crew of such aircraft shall have the same validity in the territory of the other Party as the corresponding documents issued or rendered valid by the latter.

Each of the Parties reserves the right for the purpose of flight within its own territory to refuse to recognize certificates of competency and licenses issued to nationals of that Party by the other Party.

ARTICLE 9

Aircraft of either of the Parties to this arrangement may carry wireless apparatus in the territory of the other Party only if a license to install and work such apparatus shall have been issued by the competent authorities of the Party in whose territory the aircraft is registered. The use of such apparatus shall be in accordance with the regulations on the subject issued by the competent authorities of the territory within whose air space the aircraft is navigating.

Such apparatus shall be used, only by such members of the crew as are provided with a special license for the purpose issued by the Government of the territory in which the aircraft is registered.

The Parties to this arrangement reserve respectively the right, for reasons of safety, to issue regulations relative to the obligatory equipment of aircraft with wireless apparatus.

ARTICLE 10

No arms of war, explosives of war, or munitions of war shall be carried by aircraft of either Party above the territory of the other Party or by the crew or passengers, except by permission of the competent authorities of the territory within whose air space the aircraft is navigating.

ARTICLE 11

Upon the departure or landing of any aircraft each Party may within its own territory and through its competent authorities search the aircraft of the other Party and examine the certificates and other documents prescribed.

ARTICLE 12

Aerodromes open to public air traffic in the territory of one of the Parties to this arrangement shall in so far as they are under the control of the Party in whose territory they are situated be open to all aircraft of the other Party, which shall also be entitled to the assistance of the meteorological services, the wireless services, the lighting services and the day and night signalling services, in so far as the several classes of services are under the control of the Party in whose territory they respectively are rendered. Any scale of charges made, namely, landing, accommodation or other charge, with respect to the aircraft of each Party in the territory of the other Party, shall in so far as such charges are under the control of the Party in whose territory they are made be the same for the aircraft of both Parties.

ARTICLE 13

All aircraft entering or leaving the territory of either of the Parties to this arrangement shall land at or depart from an aerodrome open to public air traffic and classed as a customs aerodrome at which facilities exist for enforcement of immigration regulations and clearance of aircraft, and no intermediary landing shall be effected between the frontier and the aerodrome. In special cases the competent authorities may allow aircraft to land at or depart from other aerodromes, at which customs, immigration and clearance facilities have been arranged. The prohibition of any intermediary landing applies also in such cases.

In the event of a forced landing outside the aerodromes, referred to in the first paragraph of this article, the pilot of the aircraft, its crew and the passengers shall conform to the customs and immigration regulations in force in the territory in which the landing has been made.

Aircraft of each Party to this arrangement are accorded the right to enter the territory of the other Party subject to compliance with quarantine regulations in force therein.

The Parties to this arrangement shall exchange lists of the aerodromes in their territories designated by them as ports of entry and departure.

ARTICLE 14

Each of the Parties to this arrangement reserves the right to require that all aircraft crossing the frontiers of its territory shall do so between certain points. Subject to the notification of any such requirements by one Party to the other Party, and to the right to prohibit air traffic over certain areas as stipulated in Article 7, the frontiers of the territories of the Parties to this arrangement may be crossed at any point.

ARTICLE 15

As ballast, only fine sand or water may be dropped from an aircraft.

ARTICLE 16

No article or substance, other than ballast, may be unloaded or otherwise discharged in the course of flight unless special permission for such purpose shall have been given by the authorities of the territory in which such unloading or discharge takes place.

ARTICLE 17

Whenever questions of nationality arise in carrying out the present arrangement, it is agreed that every aircraft shall be deemed to possess the nationality of the Party in whose territory it is duly registered.

ARTICLE 18

The Parties to this arrangement shall communicate to each other the regulations relative to air traffic in force in their respective territories.

ARTICLE 19

The present arrangement shall be subject to termination by either Party upon sixty days notice given to the other Party or by the enactment by either Party of legislation inconsistent therewith.

I shall be glad to have Your Excellency inform me whether the text of the arrangement herein set forth is as agreed to by your Government. If so, it is suggested that it be understood that the arrangement will come into force on June 1, 1932.

Accept, Excellency, the renewed assurance of my highest consideration.

FREDERIC M. SACKETT

His Excellency

Dr. HEINRICH BRÜNING,
*Minister of Foreign Affairs,
Berlin.*

*The Under Secretary of State for Foreign Affairs
to the American Ambassador*

[TRANSLATION]

FOREIGN OFFICE
II F 1049

BERLIN, May 27, 1932

MR. AMBASSADOR:

I have the honor to communicate to Your Excellency herewith the text of the arrangement between the German Reich and the United States of America governing air navigation as it was arrived at in the negotiations between the Embassy of the United States of America and the Foreign Office. It reads:

[For text of arrangement, see p. 228]

I would be grateful if Your Excellency would inform me whether the text of the arrangement in the above form meets with the approval of your Government. If so, I venture to assume concurrence that the arrangement shall go into effect on June 1, 1932.

I avail myself of this opportunity to renew to you, Mr. Ambassador, the assurance of my highest consideration.

VON BÜLOW

His Excellency

The Ambassador of the United States of America
Mr. SACKETT

The Under Secretary of State for Foreign Affairs to the American Ambassador

[TRANSLATION]

FOREIGN OFFICE
II F 1269, I

BERLIN, May 30, 1932

MR. AMBASSADOR:

I have the honor to acknowledge the receipt of Your Excellency's two communications of May 27—Nos. 797 and 798 ³—and to state that the text given therein of the arrangement between Germany and the United States of America governing air traffic and the reciprocal acceptance of certificates of airworthiness for aircraft imported from the other country as merchandise, meets with the approval of the German Government. There is agreement in opinion that the two arrangements shall go into effect on June 1, 1932.

I avail myself of this occasion to renew to you, Mr. Ambassador, the assurance of my highest consideration.

B. W. VON BÜLOW

His Excellency

The Ambassador of the United States of America
Mr. SACKETT.

The American Ambassador to the Minister of Foreign Affairs

No. 800

BERLIN, May 31, 1932

EXCELLENCY:

Adverting to your two Notes, both numbered II F 1049, of May 27, 1932, communicating to me the texts of the arrangements between the United States of America and Germany, on the subjects of air navigation and the acceptance by the one country of certificates of airworthiness for aircraft imported from the other country as merchandise, I have the honor to advise you that the texts of the arrangements therein set forth are as agreed to by my Government and that it is understood that the arrangements will come into force on June 1, 1932.

Accept, Excellency, the renewed assurance of my highest consideration.

FREDERIC M. SACKETT

His Excellency

DR. HEINRICH BRÜNING,
Minister of Foreign Affairs,
Berlin.